

**UNITED STATES OF AMERICA**  
**Before The**  
**OFFICE OF THRIFT SUPERVISION**

In the Matter of	)	Order No.: ATL-2005- 18
	)	
	)	
Kopernik Federal Bank	)	Date: July 11, 2005
Baltimore, Maryland	)	
	)	
OTS Docket No.: 04295	)	
	)	

**STIPULATION AND CONSENT TO THE ISSUANCE OF  
AN ORDER OF ASSESSMENT OF CIVIL MONEY PENALTY**

**WHEREAS**, the Office of Thrift Supervision (OTS), based upon information derived from the exercise of its regulatory responsibilities, has informed Kopernik Federal Bank, Baltimore, Maryland, OTS Docket No. 04295 (Kopernik or Bank), that the OTS is of the opinion that grounds exist to initiate an administrative civil money penalty assessment proceeding against the Bank pursuant to Section 8(i) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1818(i)<sup>1</sup>, and Section 102 of the Flood Disaster Protection Act of 1973 (FDPA), 42 U.S.C. § 4012a(f); and

**WHEREAS**, Bank desires to cooperate with the OTS to avoid the time and expense of such administrative proceeding and, without admitting or denying that such grounds exist, but only admitting the statements and conclusions in Paragraph 1 below, hereby stipulates and agrees to the following terms:

---

<sup>1</sup> All references in this Stipulation and Consent to the Issuance of an Order of Assessment of Civil Money Penalty (Stipulation) and the related Order are to the United States Code as amended.

**1. Jurisdiction.**

a. Kopernik, at all times relevant hereto, was a “savings association” within the meaning of Section 3(b) of the FDIA, 12 U.S.C. § 1813(b), and Section 2(4) of the Home Owners’ Loan Act (HOLA), 12 U.S.C. § 1462(4). Accordingly, the Bank was an “insured depository institution” as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

b. Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the Director of the OTS is the “appropriate Federal Banking agency” with jurisdiction to assess civil money penalties against such a savings association. Therefore, the Bank is subject to the jurisdiction of the OTS to initiate and maintain civil money penalty assessment proceedings against it pursuant to Section 8(i) of the FDIA, 12 U.S.C. § 1818(i). The Director of the OTS has delegated to the Regional Director of the Southeast Region of the OTS or his/her designee (Regional Director) the authority to issue civil money penalty assessment orders where an association has consented to the issuance of the order.

c. Kopernik is a “regulated lending institution” within the meaning of Section 3(a)(10) of the FDPA, 42 U.S.C. § 4003(a)(10).

d. The OTS is the “appropriate Federal entity for lending regulation” within the meaning of Section 3(a)(5) of the FDPA, 42 U.S.C. § 4003(a)(5). For purposes of enforcing Section 102 of the FDPA, 42 U.S.C. § 4012a, against such an institution, the OTS has jurisdiction over Kopernik and the subject matter of this administrative enforcement proceeding.

**2. OTS Findings of Fact.**

Kopernik has failed to comply with the FDPA, 42 U.S.C. §§ 4001-4128, and the OTS implementing regulations, 12 C.F.R. Part 572. Specifically, the OTS finds that Kopernik failed to maintain adequate flood insurance coverage as required by 12 C.F.R. § 572.3(a) and the

FDPA. The Bank was cited in its immediately preceding examination for failure to maintain adequate flood insurance coverage. The OTS finds that the above-described actions constitute a pattern or practice of violations under Section 102(f)(1) of the FDPA, 42 U.S.C. § 4012a(f)(1). Accordingly, the OTS believes that a civil money penalty of ONE THOUSAND FIVE HUNDRED FORTY Dollars (\$1,540.00) should be assessed under the FDPA.

**3. Consent.**

Kopernik consents to the issuance by the OTS of the accompanying Consent Order of Assessment of Civil Money Penalty (Order). The Bank further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of law.

**4. Finality.**

The Order is issued by the OTS under the authority of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i), and Sections 102(f)(1) and 102(f)(5) of the FDPA, 42 U.S.C. §§ 4012a(f)(1) and 4012a(f)(5). Upon its issuance by the Regional Director, the Order shall be a final order, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i). Upon its issuance by the Regional Director, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i), and Section 102(f) of the FDPA, 42 U.S.C. § 4012a(f).

**5. Waivers.**

Kopernik waives the following:

- a. the right to be served with a written notice of OTS's assessment of a civil money penalty against it as provided by Section 8(i) of the FDIA, 12 U.S.C. § 1818(i); Section 102(f)(4) of the FDPA, 42 U.S.C. § 4012a(f)(4); and 12 C.F.R. Part 509;
- b. the right to an administrative hearing of the OTS's charges against it as provided

by Sections 8(i) of the FDIA, 12 U.S.C. § 1818(i);

c. the right to seek judicial review of the Order, including, without limitation, any such right provided by 12 U.S.C. § 1818(i), or otherwise to challenge the validity of the Order;

(d) any and all claims against the OTS, including its employees and agents, and any other governmental entity for the award of fees, costs, or expenses related to this OTS enforcement matter and/or the Order, whether arising under common law, the Equal Access to Justice Act, 5 U.S.C. § 504, or 28 U.S.C. § 2412; and

e. the right to assert this proceeding, this consent to issuance of the Order, and/or the issuance of the Order, the payment of any monies, or the provision of any other financial relief as contemplated by the Order, as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity; and

**6. Other Governmental Actions Not Affected.**

(a) Upon the OTS's issuance of the accompanying Order, following the OTS's acceptance of this Stipulation executed by Bank, the OTS does release and discharge Bank from all potential claims and charges that have been or might have been asserted by the OTS, based on the alleged violations described in the Findings of Fact set forth in Paragraph 2 of this Stipulation, to the extent known to the OTS as of the effective date of the accompanying Order. However, the violations alleged above in Paragraph 2 of this Stipulation may be utilized by the OTS in future enforcement actions to establish a pattern or practice of violations or the continuation of a pattern or practice of violations. This release shall not preclude or affect any right of the OTS to determine and ensure compliance with the terms and provisions of this Stipulation and the accompanying Order.

(b) Kopernik acknowledges and agrees that its consent to the issuance of the accompanying Order is solely for the purpose of resolving certain potential OTS administrative enforcement charges as provided by Paragraph 6(a) above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, liability, or other administrative, civil, or criminal proceeding that arise pursuant to this action or otherwise, and that may be or have been brought by another governmental entity.

**7. Reservation of Rights.**

Kopernik acknowledges that the OTS reserves the right to bring such additional action(s), charge(s), or proceeding(s) arising from or related in any way to the Findings of Fact or any other matter, as the OTS deems appropriate, in its sole discretion.

**8. Agreement for Continuing Cooperation.**

Kopernik agrees that, on reasonable notice and without service of a subpoena, it will promptly respond to any written request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with the Order. Kopernik agrees to cooperate with the OTS or any other federal agency in any review requested by the OTS or any other federal government agency, or in any investigation, litigation, or other proceeding relating to Kopernik, its holding company, subsidiaries, service corporations, or institution-affiliated parties.

**9. Miscellaneous.**

(a) The construction and validity of this Stipulation and the Order shall be governed by the laws of the United States of America;

(b) If any provision of this Stipulation and the Order is ruled to be invalid, illegal, or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired

thereby, unless the Regional Director in his or her sole discretion determines otherwise;

(c) All references to the OTS in this Stipulation and the Order shall also mean any of the OTS's predecessors, successors, and assigns;

(d) The section and paragraph headings in this Stipulation and the Order are for convenience only, and such headings shall not affect the interpretation of this Stipulation or the Order;

(e) The terms of this Stipulation and the Order represent the final agreement of the parties with respect to the subject matters hereof and constitute the sole agreement of the parties with respect to such subject matters; and

(f) This Stipulation and the Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Director, Deputy Director, Regional Director, or other authorized representative.

**9. Signature of Directors.**

Each Director signing this Stipulation attests that s/he voted in favor of a Board resolution authorizing execution of the Stipulation.

**[Remainder of Page Intentionally Left Blank]**

**WHEREFORE**, Kopernik, by a majority of its directors, executes this Stipulation  
intending to be legally bound hereby.

**KOPERNIK FEDERAL BANK**  
Accepted by a majority of its directors:

By: /S/  
Director

/S/  
Director

/S/  
Director

/S/  
Director

/S/  
Director

**OFFICE OF THRIFT SUPERVISION**

/S/  
John E. Ryan  
Regional Director

Dated: July 11, 2005

**UNITED STATES OF AMERICA**  
**Before The**  
**OFFICE OF THRIFT SUPERVISION**

In the Matter of	)	Order No.: ATL-2005- 18
	)	
	)	
Kopernik Federal Bank	)	Date: July 11, 2005
Baltimore, Maryland	)	
	)	
OTS Docket No.: 04295	)	
	)	

**ORDER OF ASSESSMENT OF**  
**CIVIL MONEY PENALTY**

**WHEREAS**, Kopernik Federal Bank, Baltimore, Maryland, OTS Docket No. 04295 (Kopernik or Bank), by and through its Board of Directors (Board), has executed a Stipulation and Consent to the Issuance of an Order of Assessment of Civil Money Penalty (Stipulation); and

**WHEREAS**, Kopernik, by executing the Stipulation, has consented and agreed to the issuance of this Order of Assessment of Civil Money Penalty (Order) by the Office of Thrift Supervision (OTS), pursuant to Section 8(i) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1818(i),<sup>1</sup> and Section 102(f) of the Flood Disaster Protection Act of 1973 (FDPA), 42 U.S.C. § 4012a(f); and

**WHEREAS**, the Director of the OTS, pursuant to delegated authority, has delegated to the Regional Directors of the OTS the authority to issue Orders of

---

<sup>1</sup> All references in this Order of Assessment of Civil Money Penalty are to the United States Code (U.S.C.) as amended.



Assessment of Civil Money Penalty on behalf of the OTS where the savings association that is the subject of the Order has consented to the issuance of the Order.

**NOW THEREFORE, IT IS ORDERED** that:

**1. Payment of Civil Money Penalty**

Within ten (10) calendar days after the date of this Order, Kopernik shall pay the sum of ONE THOUSAND FIVE HUNDRED FORTY Dollars (\$1,540.00) by tendering a certified check or bank draft made payable to the order of the National Flood Insurance Program – Mitigation Fund, together with a copy of the executed CMP Order and a cover letter referencing Kopernik Federal Bank, Baltimore, Maryland, OTS Docket No. 04295 to the following address: 7700 Hubble Drive, Lanham, Maryland 20706. A copy of the certified check or bank draft and the cover letter shall be provided by U.S. Mail or overnight courier to Karen Bruton, Regional Counsel, Office of Thrift Supervision, 1475 Peachtree St., N.E., Atlanta, Georgia, 30309.

**2. Definitions.**

All technical words or terms used in this Order and the Stipulation for which meanings are not specified or otherwise provided by the provisions of this Order shall, insofar as applicable, have meanings as defined in the FDIA and FDPA. Any such technical words or terms used in this Order and the Stipulation and undefined in said FDIA and FDPA shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

**3. Successor Statutes, Regulations, Guidance, and Amendments.**

Reference in this Order and the Stipulation to provisions of statutes, regulations, and OTS Publications shall be deemed to include references to all amendments to such

provisions as have been made as of the effective date of this Order, and references to successor provisions as they become applicable.

**4. Notices.**

a. Except as otherwise provided herein, any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted by the Order to be made upon, given or furnished to, delivered to, or filed with:

i. OTS by Kopernik, shall be sufficient for every purpose hereunder if in writing and mailed, first class, postage prepaid or sent via overnight delivery service or physically delivered, in each case addressed to the Regional Director, Office of Thrift Supervision, Department of the Treasury, 1475 Peachtree St., N.E., Atlanta, Georgia, 30309 or telecopied to 404.897.1861 and confirmed by first class mail, postage prepaid, overnight delivery service or physically delivered, in each case to the above address.

ii. Kopernik by OTS, shall be sufficient for every purpose hereunder if in writing and mailed, first class, postage prepaid, or sent via overnight delivery service or physically delivered, in each case addressed to Kopernik Federal Bank's Board at 2101 Eastern Avenue, Baltimore, Maryland 21231, or telecopied to 410.563.8766 and confirmed by first class mail, postage prepaid, overnight delivery service or physically delivered, in each case to the above address.

b. Notices hereunder shall be effective upon receipt, if by mail, overnight delivery service, or telecopy, and upon delivery, if by physical delivery. If there

is a dispute about the date on which a written notice has been received by a party to this Order, then, in the event such notice was sent by the United States mail, there shall be a presumption that the notice was received two business days after the date of the postmark on the envelope in which the notice was enclosed.


**5. Duration, Termination or Suspension of Order.**

This Order is and shall become effective on the date it is issued, as shown in the caption hereof. The Stipulation and the Order shall remain in effect until terminated, modified, or suspended in writing by OTS, acting through its Director, Regional Director, or other authorized representative.

**THE OFFICE OF THRIFT SUPERVISION**

/S/

By:

  
John E. Ryan  
Regional Director